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COMMITTEE ON THE RIGHTS OF THE CHILD

First session

SUMMARY RECORD OF THE 19th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 14 October 1991, at 10 a.m.

Chairman: Mrs. BADRAN

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Adoption of the rules of procedure (continued)

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The meeting was called to order at 10.20 a.m.

ADOPTION OF THE RULES OF PROCEDURE (agenda item 4) (continued) (CRC/C/L.1)

1. The CHAIRMAN invited the Committee to continue its second reading of the draft provisional rules of procedure.

2. In reply to a question by Mrs. BELEMBAOGO, she confirmed that the secretariat would ensure that the necessary drafting changes were made to the table of contents and to the headings and texts of the rules of procedure.

Rules 60 and 61

3. Rules 60 and 61, as contained in document CRC/C/L.1, were adopted.

Rule 62

4. Mrs. KLEIN (Representative of the Secretary-General), replying to a question by Mr. KOLOSOV concerning the difference between the word "vacancy" and the words "elective place", said that a "vacancy" might arise, for example, when a person who had been elected was no longer in a position to fulfil his mandate, whereas an "elective place" might be a new position yet to be filled.

5. Rule 62, was adopted.

Rule 63

6. The CHAIRMAN said that rule 63 had been amended to read:

> "1. The Committee may, in accordance with the provisions of the Convention and subject to the provisions of rule 26 whenever applicable, set up such sub-committees and other ad hoc subsidiary bodies as it deems necessary and define their composition and mandates.
>
> 2. Each subsidiary body shall elect its own officers and may adopt its own rules of procedure. Failing the adoption of such rules, the present rules of procedure shall apply mutatis mutandis."

7. Mr. HAMMARBERG said that, as the rule stood, a decision to set up a subsidiary body might be taken only in plenary.

8. Mrs. SANTOS PAIS said that she understood the wording of rule 63 to mean that the Committee as a whole might decide whether or not such a body should be set up.

9. Mr. HAMMARBERG said that there might be circumstances where it would be advisable for the Chairman and the Bureau to have the authority to take such a decision. As the rules were still provisional, however, the amended text might be retained as it stood for the time being.

10. Rule 63, as amended, was adopted.

Rule 64

11. Mr. KOLOSOV, supported by Mrs. SANTOS PAIS, suggested that the words "and may submit such other reports as the Committee considers necessary" should be added at the end of the sentence.

12. It was so decided.

13. Rule 64, as amended, was adopted.

New rule 65

14. The CHAIRMAN suggested that the Committee should adopt the following new rule 65: "The Committee, or its subsidiary bodies, may issue for general distribution other reports on its activities. The Committee may also issue reports for general distribution in order to highlight specific problems in the field of the rights of the child." The following rules would be renumbered accordingly.

15. It was so decided.

16. New rule 65 was adopted.

PART TWO. RULES RELATING TO THE FUNCTIONS OF THE COMMITTEE

17. Mr. KOLOSOV suggested that the words "RULES RELATING TO THE" in the heading of Part Two should be deleted.

18. Mr. BRUNI (Secretary of the Committee) pointed out that the heading of Part One referred to "GENERAL RULES".

19. Mr. HAMMARBERG said that, in the heading of Part One, the key word was "general", not "rules". He agreed with Mr. Kolosov's suggestion.

20. Mrs. SANTOS PAIS, supported by Mrs. BELEMBAOGO, pointed out that the heading of Part Three did not refer to "rules".

21. The CHAIRMAN said that, if she heard no objection, she would take it that the heading of Part Two should be amended to read: "FUNCTIONS OF THE COMMITTEE".

22. It was so decided.

Rule 66

23. The CHAIRMAN suggested that the Committee should adopt the following wording of rule 66:

> "1. States parties shall submit reports, through the Secretary-General, pursuant to article 44 of the Convention.

2. States parties shall submit such reports within two years after the entry into force of the Convention for the State party concerned and thereafter they shall submit subsequent reports every five years and such additional reports or information in the intervening period as the Committee may request.

3. The Committee shall, through the Secretary-General, indicate to the States parties the form and contents of reports or information to be supplied to the Committee, in accordance with paragraphs 1 and 2 of this rule."

24. It was so decided.

25. Rule 66 was adopted.

Rule 67

26. The CHAIRMAN suggested that the Committee should adopt the following wording of rule 67:

"1. At each session, the Secretary-General shall notify the Committee of all cases of non-submission of reports or additional information under article 44 of the Convention and rule 66 of these rules. In such cases, the Committee shall transmit to the State party concerned, through the Secretary-General, a reminder concerning the submission of such report or additional information and undertake any other efforts in a spirit of dialogue between the State concerned and the Committee.

2. If, even after the reminder and other efforts referred to in paragraph 1 of this rule, the State party does not submit the required report or additional information, the Committee shall consider the situation as it deems necessary and shall include a reference to this effect in its report to the General Assembly."

27. It was so decided.

28. Rule 67 was adopted.

Rule 68

29. The CHAIRMAN suggested that the Committee should adopt the following wording of rule 68:

"The Committee shall, through the Secretary-General, notify the States parties, as early as possible, of the opening date, duration and place of the session at which their respective reports will be examined. Representatives of the States parties shall be invited to attend the meetings of the Committee when their reports are examined. The Committee may also inform a State party from which it decides to seek additional

information that it may authorize its representative to be present at a specified meeting. Such representative should be able to answer questions which may be put to him or her by the Committee and make statements on reports already submitted by his or her State, and may also submit further information from his or her State."

30. Mr. KOLOSOV said that the words "Such representative should be able to answer questions which may be put to him or her by the Committee" were too strong for the Committee's rules of procedure.

31. Mrs. SANTOS PAIS pointed out that the rules of procedure of other treaty bodies contained equivalent wording.

32. Mrs. EUFEMIO said that, under international law, individuals representing States parties at meetings such as those of the Committee were usually plenipotentiaries with full powers not only to answer questions, but also to commit the State party to action in compliance with a given international instrument.

33. Mr. HAMMARBERG said that the phrase referred to by Mr. Kolosov corresponded to similar provisions in other human rights treaties. Amending it might imply that the Committee's scrutiny of reports was to be less rigorous than that of others.

34. Mr. Kolosov's concerns might be allayed if the last sentence was combined with the preceding one through the insertion of the words "and that". The resulting text would then be less imperative and would contain indications on how the Committee expected its meetings to proceed.

35. Mr. KOLOSOV said that, although he did not agree that the Committee should adopt provisions used by other treaty bodies if they were at variance with the obligations embodied in the Convention, he could accept the amendment proposed by Mr. Hammarberg as a compromise solution.

36. Another point with regard to the last sentence was that the words "by the Committee" should be replaced by the words "at the meeting of the Committee" if observer delegations, non-governmental organizations and other bodies were to be able to take part in the dialogue with representatives of States parties.

37. Mr. HAMMARBERG said that, although it might be desirable to hear suggestions and analysis from outside observers at the preliminary stage in the consideration of a report, such an approach would not be appropriate during meetings with representatives of States parties.

38. Mrs. BELEMBAOGO said that she agreed with Mr. Hammarberg. The representatives of non-governmental organizations themselves had indicated that they preferred to contribute to the Committee's work by transmitting information and giving technical advice on specific issues, not by participating directly in the dialogue with States parties.

39. Mrs. EUFEMIO said that she endorsed the comment by Mrs. Belembaogo.

40. Mrs. SANTOS PAIS said that, although assistance from outside observers was welcome, the Committee's dialogue with States parties was the core of its mandate under the Convention. It should remain a dialogue in the true sense of the word.

41. Mr. MILJETEIG-OLSSEN (United Nations Children's Fund) confirmed that the role of the specialized agencies was to confer closely with the members of the Committee before the dialogue with a State party's representative began in order to convey informally ideas relating to questions that might be asked. The members of the Committee could use those ideas or not, as they saw fit.

42. Mr. KOLOSOV said he could accept the views expressed by the other members of the Committee, but recalled that, under rule 63, paragraph 2, the subsidiary bodies established by the Committee were to apply the Committee's rules of procedure mutatis mutandis unless they adopted their own rules. Observers, non-governmental organizations and other bodies might thus be prohibited from participating in the work of subsidiary bodies and accordingly, from playing any role at all in the consideration of a State party's report.

43. Mr. HAMMARBERG said that that interpretation of rule 63, paragraph 2, was correct, but the rule did not serve as an impediment to the participation of observers, specialized agencies and other bodies, which could provide their advice through channels other than statements at meetings.

44. Mrs. SANTOS PAIS pointed out that, under rule 63, paragraph 2, a subsidiary body had the right to establish its own rules of procedure. Those rules could allow statements by outside observers, if such statements were considered desirable.

45. The CHAIRMAN said that, if she heard no objection, she would take it that the Committee wished to adopt rule 68, with the amendment to the last two sentences proposed by Mr. Hammarberg.

46. It was so decided.

47. Rule 68, as amended, was adopted.

Rules 69 and 70

48. Rules 69 and 70 were adopted.

Rule 71

49. The CHAIRMAN suggested that the Committee should adopt the following wording of rule 71:

> "1. After its consideration of each report of a State party, together with such reports, information or advice, if any, received pursuant to

article 44 and article 45, subparagraph (a), of the Convention, and rules 66, 69 and 70 of these rules, the Committee may make such suggestions and recommendations on the implementation of the Convention by the reporting State as it may consider appropriate.

2. The Committee shall transmit, through the Secretary-General, suggestions and recommendations it has made to the State party concerned for its comments. The Committee may, where necesssary, indicate the time-limit within which such comments are to be received.

3. The Committee shall include in its reports to the General Assembly comments, suggestions and recommendations, together with comments, if any, received from State parties."

50. Mr. HAMMARBERG asked whether the words "suggestions and recommendations" corresponded to what was to be a final statement, or concluding observations, resulting from the Committee's work on a given report. The Committee's assessement of a report might be positive or negative, but it would not necessarily take the form of "recommendations". He therefore suggested that the words "suggestions and recommendations" should be replaced by the words "observations and suggestions".

51. Mrs. SANTOS PAIS proposed that the words "rules 66, 69 and 70" should be replaced by the words "the relevant rules of procedure", since a number of other rules also applied.

52. With regard to Mr. Hammarberg's suggestion, she agreed on the need for the Committee to make concluding observations in order to sum up its dialogue with a given State party. The words "suggestions and recommendations" were taken from the Convention, however, and retaining them would be preferable. They would not prevent the Committee from adopting concluding observations if it so wished.

53. Mr. KOLOSOV said the wording used in the Convention must, of course, be respected, but article 45 (d) actually referred to "suggestions and general recommendations". Those words might be substituted for the words "suggestions and recommendations" in the title and in paragraphs 1 and 2 of rule 71.

54. In paragraph 3, the words used were "comments, suggestions and recommendations". As that wording went beyond the terms used in article 45 (d), States parties might conclude that the Committee was exceeding the scope of its mandate. They might then point out that they were bound by the terms of the Convention, not by the Committee's rules of procedure.

55. Mrs. EUFEMIO suggested that the Committee should compare the meaning of the words "comments" and "observations".

56. The CHAIRMAN suggested that the Rapporteur, together with Mr. Kolosov, should revise rule 71 in the light of the comments made during the discussion.

57. It was so decided.

The meeting was suspended at 11.45 a.m. and resumed at 12.20 p.m.

58. Mrs. SANTOS PAIS read out the following revised version of rule 71:

"Suggestions and general recommendations on a State party report

Rule 71

1. After its consideration of each report of a State party, together with such reports, information or advice, if any, received pursuant to article 44 and article 45, subparagraph (a), of the Convention, the Committee may make such suggestions and general recommendations on the implementation of the Convention by the reporting State as it may consider appropriate.

2. The Committee shall transmit, through the Secretary-General, to the State party concerned for its comments, suggestions and general recommendations it has decided upon. The Committee may, where necessary, indicate the time-limit within which such comments from States parties are to be received.

3. The Committee shall include in its reports to the General Assembly suggestions and general recommendations, together with comments, if any, received from States parties."

59. Rule 71, as amended, was adopted.

New rule 72

60. Mrs. SANTOS PAIS said that, during informal discussions, the members of the Committee had agreed on the following amended version of new rule 72:

"Other general recommendations

Rule 72

The Committee may make other general recommendations based on information received pursuant to articles 44 and 45 of the Convention.

The Committee shall include such other general recommendations in its reports to the General Assembly, together with comments, if any, received from States parties."

61. New rule 72, as amended, was adopted.

Rule 73

62. The CHAIRMAN suggested that the Committee should adopt the following wording of rule 73:

"The Committee may prepare general comments based on the articles and provisions of the Convention with a view to promoting its further implementation and to assisting States parties in fulfilling their reporting obligations.

The Committee shall include such general comments in its reports to the General Assembly."

63. It was so decided.

64. Rule 73 was adopted.

Rule 74

65. THE CHAIRMAN suggested that the Committee should adopt the following wording of rule 74:

"Transmission of States parties' reports that contain a request or indicate a need for technical advice or assistance

Rule 74

The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies reports and information received from States parties that contain a request, or indicate a need, for technical advice or assistance.

2. The reports and information received from States parties in accordance with paragraph 1 of this rule shall be transmitted along with observations and suggestions, if any, of the Committee on these requests or indications."

66. Mrs. SANTOS PAIS proposed that the following new paragraph 3 should be added to provide for follow-up to the technical advice or assistance recommended: "The Committee may request, when it considers appropriate, information on the technical advice or assistance provided and progress achieved".

67. It was so decided.

68. Rule 74, as amended, was adopted.

The meeting rose at 1 p.m.